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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,044	02/01/2001	Reinhold Stadler	49248	7928

26474 7590 12/06/2004  
KEIL & WEINKAUF  
1350 CONNECTICUT AVENUE, N.W.  
WASHINGTON, DC 20036

EXAMINER

LEVY, NEIL S

ART UNIT PAPER NUMBER

1616

DATE MAILED: 12/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/762,044	<b>Applicant(s)</b> STADLER ET AL.	
	<b>Examiner</b> Neil Levy	<b>Art Unit</b> 1616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-19 is/are pending in the application.
- 4a) Of the above claim(s) 4-7 and 12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8-10 and 13-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-10 and 12-19 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                        |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

We note the specification does not, @ top of P. 1. claim priority as a 371 case.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4-7, 12 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Claims 1, 2, 8-10, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim recites adjustable to about 12,000 to 25,000 Kj/ Kg; thus, no added heat is required; it is not clear when 12,000, when 25,000 is the limit unless one can not determine the difference between 12K and 25K.

The report as declaration would be of value, if the above issue is resolved.

Claims 1, 2, 8-10, 13, 14, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Saur et al Ca 2178655.

The rejection of record is maintained. The declaration does nothing to change the compositions – they are shown by Saur, although evidently not prepared identically. The declaration did not address the full range of Saur's heat application – 110°C p. 7,

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lines 26-031). Saur's range is applicant's & thus at 110 C (p7) would also meet the instant input.

Claims 9, 16, 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention, as the amendment of 10/19/04 was not entered..

The rejection of record is maintained on claim 9, and thus dependent claims.

Claim 9 reads "-optionally additive in a fluidized bed-. It is unclear if the fluidized bed is optional, and if the micropores are optional.

Applicant's arguments filed 4/27/04 have been fully considered but they are not persuasive. Applicant argues are to low heat in the closest prior art, and improved efficacy as applied to wax polymer, per declaration, but problems persist the specification also fails to provide any criticality or differentiation between fluidized bed & other coating means (page 30, lines 20-24) previously cited in the art of record. The instant disclosure prefers an operational temperature range of 10-110 C; Saur would meet these also, as p. 5 discloses fluidized bed, or drum, coating with the instant polymers, on a solid carrier, to provide soil-applied CR granules, the instant compositions, & (P 8), the instant method.

The declaration did not address higher values, nor any but the elected wax coating. However, the obviousness rejection is overcome.

Claims 1-3, 8-10, 13-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably

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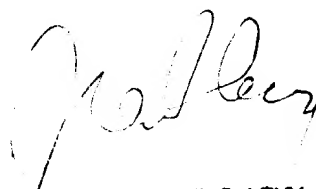
convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Review of specification fails to elicit any mention of KJ/kg except 6,000 – 25,000 @ page 1; there is no support examiner can find for any other values..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (571) 272-0619. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Levy/LR  
December 3, 2004



NEIL S. LEVY  
PRIMARY EXAMINER